

Attorney Ref: KAP-101-A
(Formerly PAA-101-A)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Nikolai Grigorievich Lyapko

Serial Number: 10/031,161

Filing Date: 5/20/2002

Group Art Unit: 3764

Examiner: Lori Baker Amerson

Title: APPLICATOR FOR USE IN REFLEXOTHERAPY

STATEMENT OF INTERVIEW SUMMARY

By fax to: USPTO Official Fax Line 703-872-9306
Examiner Lori B. Amerson 571-273-4971

Sir:

In response to the Interview Summary mailed April 27, 2005, please favorably consider the following Statement of Interview Summary and the enclosures mentioned therein.

STATEMENT OF INTERVIEW SUMMARY

On April 25, 2005, Kathryn Kniep (assistant to Irving M. Weiner, Attorney for Applicant) conducted a telephone interview with Examiner Lori Amerson.

Examiner Amerson stated that there is a two-month time frame for filing an appeal brief from the filing date of the Notice of Appeal, but that an additional five months could be purchased for an extension of time.

With regard to the Amendment-C, Ms. Kniep gave the following synopsis:

On August 3, 2004 the Amendment-C responsive to the Office Action of May 4, 2004 was faxed to the fax number of the Examiner Nicholas Lucchesi, Group Art Unit 3764 at fax number 703-308-3139. The Amendment-C was accompanied by a Certificate of Mailing which indicated that the document had been faxed to the above number on August 3, 2004.

A facsimile report (copy enclosed) from the applicant's representative's fax machine was also placed in the client file, indicating that 19 pages (the number of pages of Amendment-C) were faxed to that fax number on that date.

On October 1, 2004, Mr. Weiner spoke by telephone with Examiner Nicholas Lucchesi who said the Amendment -C had been received and told Mr. Weiner to call new Examiner Glen Tan at 703-605-4354 in a week's time. On October 5, 2004, Mr. Weiner called Examiner Tan and left a message to return the call.

On November 4, 2004, Ms. Kniep telephoned Examiner Glen Tan and left another message on his voice mail. At 9:15 on November 4, 2004 Examiner Tan returned the call and stated he was not the examiner in the case; he referred Ms. Kniep to Examiner Justine Yu at 703-307-2675; he stated Examiner Yu was moving offices that day, and was also the moving coordinator; and on November 5, 2004, her number would change to 571-272-4835.

At 10:07 on November 4, 2004, Ms. Kniep received a phone call from Examiner Yu who stated she had all of her files packed, but did not have a record of receiving the Amendment-C on her in-line system. She said to re-fax the amendment, along with a copy of the fax report to 703-872-9306 and there should be no late fees. Ms. Kniep pointed out that November 4, 2004 was the six-month deadline and Ms. Yu said that she understood that.

On November 4, 2004, Ms. Kniep faxed a Second Facsimile (copy enclosed) of Amendment-C to 703-872-9306, also with a Certificate of Mailing (copy enclosed) indicating that it was faxed to the number above. Facsimile report is also enclosed.

On December 15, 2004, an Advisory Action was received, stating that only the November 4, 2004 cover letter, and not the Amendment-C had been received.

On January 4, 2005, Mr. Weiner filed by fax to 703-872-9306 five pages of material (copy enclosed) including a cover page, Notice of Appeal with form PTO-2038 for fee of \$250, and a Petition for Extension of Time under 37 CFR 1.135(b) – 3 months with Form PTO-2038 for fee \$510. Enclosed is 1/4/2005 PTO Auto-Reply Facsimile Transmission.

On April 22, 2005 Ms. Kniep phoned Examiner Yu, left a message on her voice mail, and requested an urgent reply.

On April 25, 2005 Ms. Kniep received a telephone call from Examiner Yu who stated she is no longer the supervisor of the art unit in question. Ms. Kniep was transferred to Mr. Hewson, who was the current Supervisor and he referred Ms. Kniep to Examiner Lori Amerson, the current Examiner, at 571-272-4971.

Ms. Kniep relayed the above synopsis of activity to Examiner Amerson. Examiner Amerson stated that the Appeal Brief must be filed two months from the date of Notice of Allowance, but that it was possible to purchase up to five more months extension, through July of 2005.

Examiner Amerson also stated that the Amendment-C needs to be re-sent to the official fax line, along with proof that a copy was faxed in August, 2004. Ms. Kniep phoned Examiner Yu and left a message.

On April 27, 2005 Ms. Kniep again phoned Ms. Yu who stated she was not the Examiner in the case at the time the Amendment-C was filed. Nicholas Lucchesi, Art Unit 3700 was Examiner at that time. Ms. Kniep phoned Examiner Lucchesi and left a detailed message.

On April 27, 2005 Ms. Kniep telephoned Examiner Lucchesi again at 571-272-3700. He did not believe he would have the Amendment-C on his fax data, but stated that he felt the Certificate of Facsimile on the original Amendment-C would be adequate proof that it was faxed August 3, 2004.

He suggested that Ms. Kniep fax the Amendment-C and the August 3, 2004 Certificate of Facsimile directly to Examiner Amerson's fax line. Ms. Kniep pointed out that Examiner Amerson had said it should be faxed to the official fax line. Examiner Lucchesi said perhaps that was what Examiner Amerson would prefer.

Examiner Lucchesi also said that if there was any difficulty with Examiner Amerson accepting the Certificate of Facsimile as proof, applicant's attorney should discuss it with Mr. Hewson, Supervisor of Art Unit 3674.

At this point, it is respectfully submitted that we have two conflicting PTO statements regarding the Amendment-C.

In the October 1, 2004 telephone call between Mr. Weiner and Examiner Lucchesi, Examiner Lucchesi stated that the Amendment-C had been received.

In the November 4, 2004 call from Examiner Yu to Ms. Kniep, Examiner Yu indicated she had no record of receiving the Amendment-C.

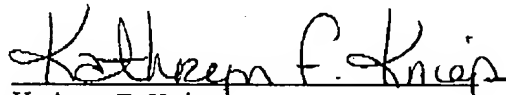
A copy of the Amendment-C, together with its Certificate of Mailing indicating that it was faxed to the Examiner Lucchesi's fax number on August 3, 2004 and signed by Ms. Kniep is attached.

Applicant respectfully requests that the December 15, 2004 Office Action stating that the Amendment - C had not been received be withdrawn, and the Amendment-C be entered as timely.

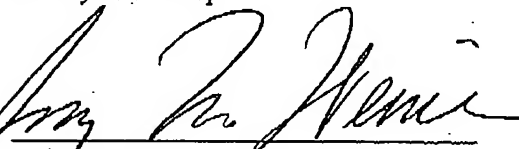
Applicant further requests that because the Amendment-C was faxed to the Examiner and received by Examiner Lucchesi on August 3, 2004, the January 4, 2005 Notice of Appeal and Request for Extension of Time was not necessary and accordingly should be withdrawn and a refund of fees be made to Weiner & Burt, P.C.

Reconsideration is respectfully requested.

Respectfully submitted,



Kathryn F. Kniep

May 6, 2005
Weiner & Burt, P.C.
P.O. Box 186
635 N. US-23
Harrisville, MI 48740


Irving M. Weiner (Reg # 22168)
Attorney for Applicant
Phone: 989 724-7400
Fax: 989 724-7100

CERTIFICATE OF FAXING

I hereby certify that the above document and the enclosures mentioned therein have been faxed to 703-872-9306 and 571-273-4971 on May 6, 2005.


Kathryn F. Kniep

IMW/kk
Encls.

ACTIVITY REPORT

TIME : 08/06/2004 05:00

NO.	DATE	TIME	FAX NO. /NAME	DURATION	PAGE(S)	RESULT	COMMENT
	07/30	10:30	5177246928	23	01	OK	RX ECM
	07/30	10:51	L3-2 8008955169	55	01	OK	RX
	07/30	12:19	12484248848	41	02	OK	TX ECM
	07/30	13:35	1 989 724 7013	49	02	OK	RX ECM
	07/30	14:44	0115626961786	20	01	OK	TX ECM
	07/30	14:50	12126339262	27	01	OK	TX ECM
	07/30	14:55	17184991778	22	01	OK	TX ECM
	07/30	14:57	17033065995	02:01	07	OK	TX ECM
	08/02	04:12		35	01	OK	RX ECM
	08/02	08:51	19893452813	45	02	OK	RX ECM
	08/02	11:07	R F	01:48	04	OK	RX ECM
	08/02	14:59	17037469195	01:05	04	OK	TX ECM
	08/02	15:08	USPTO	40	01	OK	RX ECM
	08/02	17:23		51	01	OK	RX
	08/03	10:28	0115626961786	01:48	07	OK	TX ECM
	08/03	11:04	9893455857	26	01	OK	RX ECM
	08/03	12:24	9897361077	02:04	04	OK	RX ECM
	08/03	12:52	0115626961786	01:15	05	OK	TX ECM
*	08/03	14:58	17033083139	06:00	19	OK	TX ECM
	08/03	15:48	810 387 2051	35	02	OK	RX ECM
	08/03	20:05		33	01	OK	RX ECM
	08/04	03:01	61 8 82119433	35	02	OK	RX ECM
	08/04	09:13		25	01	OK	RX ECM
	08/04	10:27		20	01	OK	RX ECM
	08/04	11:14	5865521940	27	02	OK	RX ECM
	08/04	11:38	FAX	22	01	OK	RX ECM
	08/04	12:09	9893562123	50	02	OK	RX ECM
	08/04	14:44	19893452813	47	02	OK	TX ECM
	08/04	14:46	POLKINGHORNE	44	03	OK	TX ECM
	08/04	14:49	011380442300107	27	00	NG	TX
	08/04	15:26		45	03	OK	RX ECM
	08/04	21:42	L3-3 8008955169	55	01	OK	RX
	08/04	22:04		26	01	OK	RX ECM
	08/05	09:21	2312234105	34	02	OK	RX ECM
	08/05	11:24	17342850001	01:11	03	OK	TX
	08/05	13:58	5177246928	41	01	OK	RX ECM
	08/05	14:46	OHASHI	01:39	06	OK	TX ECM
	08/05	15:16	14196563678	29	02	OK	TX ECM
	08/05	15:18	011442076633550	39	02	OK	TX ECM
	08/05	20:54	1-888-449-5267	42	01	OK	RX ECM

BUSY: BUSY/NO RESPONSE
 NG : POOR LINE CONDITION
 CV : COVERPAGE
 CA : CALL BACK MSG
 POL : POLLING
 RET : RETRIEVAL

USPTO 1/4/2005 1:42 PM FAX 1/001 FAX SERVER
 TO: Auto-reply fax to 941 485 5678 COMPANY:

Auto-Reply Facsimile Transmission



TO:

Fax Sender at 941 485 5678

Fax Information

Date Received:

1/4/2005 1:24:15 PM [Eastern Standard Time]

Total Pages:

5 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(e) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received
Cover
Page
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JRN-01-2005(10E) 13:19		Encore DU Report Sarasota South (FAX)941 485 5678		P.001/005
INTELLECTUAL PROPERTY LAW OFFICES WEINER & BURT, P.C.				
601 N. US-30 P.O. BOX 345 HARRISVILLE, MICHIGAN 49740	TEL: (269) 873-6688 • (269) 824-7199 FAX: (269) 824-7199 E-MAIL: info@weinerburt.com	IRVING M. WEINER • PAMELLA S. BURT • Registered to provide initial US U.S. Patent and Trademark Office		
U.S. and Foreign Patents, Trademarks, Copyrights, Computer Law, Trade Secrets, Licensing and Litigation				
January 4, 2005				
By Fax to 703-872-9206		Page 1 of 5		
To: Commissioner for Patents				
Re: U. S. Patent Application No. 10/0317161 Applicant: LYAFKO, Nikolai Filed: 01/20/02 For: Application for Use in Reflexotherapy Art Unit: 3764 Examiner: Justice Yu Attorney Ref. PAA-101-A				
Sir:				
Attached by fax for filing in this application are the following:				
1. Notice of Appeal 2. Credit Card Payment Form for Notice of Appeal fee (\$250) 3. Petition for Extension of Time under 37 CFR 1.136(b) - 3 months 4. Credit Card Payment Form for Petition for Extension of Time fee (\$510)				
IMW/ms		Sincerely, Irving M. Weiner (Reg. No. 22,168) Attorney for Applicant		
Enclosures by fax				
PAGE 05 * RCVD AT 10/2005 1:24:15 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/24 * DNIS:2734971 * CSID:9897247100 * DURATION (mm-ss):02:46				